

AMABILE & ERMAN, P. C.

ATTORNEYS AT LAW

1000 SOUTH AVENUE

STATEN ISLAND, NEW YORK 10314-3407

TELEPHONE: (718) 370-7030

FAX: (718) 370-3656

CARL M. ERMAN*
PAUL M. DECARLO
JEFFREY J. COHEN
EDWARD F. HUMPHRIES***
IRENE P. ZIEGLER

JOHN A. ORBON
KIM A. CARNESI*
MARC J. FALCONE
ANTHONY A. LENZA, JR.*
JONATHAN S. ERMAN*
ADRIANA M. SOLIMEO*
ROBYN J. STADLIN*
FLUTRA LIMANI
STEPHANIE M. BERGER**
ANTHONY P. RUFFINI*
MATTHEW LENZA*

BROOKLYN OFFICE

26 COURT STREET
SUITE 2801
BROOKLYN, NY 11242-0708
(718) 852-9113
FAX (718) 855-8811

NEW JERSEY OFFICE

CARL M. ERMAN
197 HIGHWAY 18
EAST BRUNSWICK, NJ 08816
(732) 937-5353

ALSO ADMITTED IN

• NEW JERSEY

** NEW JERSEY AND FLORIDA

***NEW JERSEY AND PENNSYLVANIA

October 20, 2004

Jonathan Behrins, Esq.
Behrins & Behrins, P.C.
One Edgewater Plaza, Suite 700
Staten Island, N.Y. 10305

Salvatore Conte
Via Aniello Falcone, 256
Napoli, Italia 80127

Kopff, Nardelli and Dopf, LLP
440 9th Avenue
New York, N.Y. 10001

Annamaria Persico
Via Aniello Falcone, 256
Napoli, Italia 80127

Martin Clearwater & Bell, LLP
220 East 42nd Street
New York, New York 10017

Re: Gotlin v. Lederman, et al.
Index No.: CV 04 3736
Our File No. : 4516
Glasser, J.
Mann, M.J.

Dear Sirs/Madams:

Enclosed for service upon you please find our Pre-Answer Cross-Motion on behalf of defendants, Philip Jay Silverman, M.D. and Irina Grosman, M.D.

Thanking you for your attention to this matter.

Very truly yours,


ANTHONY A. LENZA, JR. (2680)

cc: The Honorable I. Leo Glasser
United States District Court/EDNY
225 Cadman Plaza East
Brooklyn, NY 11201

The Honorable Magistrate Judge Roanne L. Mann
United States District Court/EDNY
225 Cadman Plaza East
Brooklyn, NY 11201

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GARY D. GOTLIN, as Public Administrator of The State of
New York, in and for the County of Richmond, in his
capacity as Administrator of the Estates of the following
decedents:

GIUSEPPA CARAMANNA BONO, deceased, and her
surviving spouse, GIUSEPPE BONO,

DINO BROVELLI, deceased, and his surviving spouse,
PATRIZIA SIRAGUSA BROVELLI;

DINO CATTAI, deceased, and his surviving spouse,
VIRGINIA GRANDIN CATTAI;

FRANCESCO CENTORE, deceased, and his surviving
spouse, MARIA MENSITIERI CENTORE;

GIUSEPPE DiGANCI, deceased, and his surviving
spouse, MARIA RITA PULEO DiGANCI;

ROBERTO ETTORE, deceased, and his surviving spouse,
CARMELA FRAMMARTINO ETTORE; and

MASSIMO FACCHINI, deceased, and his surviving
spouse, FEDERICA LOSACCO FACCHINI;

and

GIANCARLA PESCI; and ANTONIO RODA,

Plaintiffs,

-against-

GILBERT S. LEDERMAN, M.D.; GILBERT
LEDERMAN, M.D., P.C.; PHILIP JAY SILVERMAN,
M.D.; IRINA GROSMAN, M.D.; JOSEPH CONTE;
SALVATORE CONTE; MARIA GELMI-NOURBAHA;
ANNAMARIA PERSICO; STATEN ISLAND UNIVERSITY

**NOTICE OF PRE-ANSWER
CROSS-MOTION TO DISMISS**

GLASSER, J.

MANN, M.J.

CV 04 3736

HOSPITAL; NORTH SHORE-LONG ISLAND
JEWISH HEALTHCARE, INC.; NORTH SHORE-
LONG ISLAND JEWISH HEALTH SYSTEM,
INC.; ANDREW J. PASSERI; ALFRED L. GLOVER;
RALPH J. LAMBERTI; GERALD FERLISI;
ANTHONY C. FERRERI; BETSEY MERCEREAU;
RICK J. VARONE; JOSEPH R. PISANI; DALE TAIT;
JOHN L. COSTELLO; JOHN A. D'ANNA; AND JOHN
M. SHALL,

Defendants.

-----X

C O U N S E L O R S :

NOTICE IS HEREBY GIVEN that, upon the annexed Declaration of Anthony A. Lenza, Jr., Esq., executed on October 20, 2004, and on all the pleadings and papers on file in this action, defendants, PHILIP JAY SILVERMAN, M.D. and IRINA GROSMAN, M.D., will cross-move this Court before the Honorable I. Leo Glasser at the United States District Court Courthouse, Eastern District of New York, 225 Cadman Plaza East, Brooklyn, New York, 11201 on the 19th day of November 2004 in the forenoon of that day (subject to a joint briefing schedule yet to be determined), or as soon thereafter as counsel may be heard, for:

A. an Order, pursuant to the Fed. R. Civ. P. 12(b)(1), dismissing Plaintiffs' Complaint in its entirety, with prejudice, as to defendants, PHILIP JAY SILVERMAN, M.D. and IRINA GROSMAN, M.D., for lack of jurisdiction over the subject matter, and for

B. an Order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing, with prejudice, as to said defendants Count II (Common Law Fraud); Count III (Unjust Enrichment); Count V (Negligent Misrepresentation); Count VI (Breach of Warranty); Count XI (Lanham Act); and Count XII (RICO Act), and for

C. granting these moving defendants such other incidental relief, including the costs of this motion, as may be deemed by the Court to be appropriate.

Pursuant to Local Civil Rule 6.1(b)(2) of the Rules of the United States District Court for the Eastern District of New York, opposing Affidavits and answering Memoranda of Law must be served no later than November 9, 2004.

Dated: October 20, 2004
Staten Island, New York



ANTHONY A. LENZA, JR. (2680)
ECF username: aalenza
AMABILE & ERMAN, PC
Attorneys for Defendants
Philip Jay Silverman, M.D.
and Irina Grosman, M.D.
1000 South Avenue
Staten Island, N.Y. 10314
718-370-7030

TO: BEHRINS & BEHRINS, P.C.
Attorneys for Plaintiffs
One Edgewater Plaza (Suite 700)
Staten Island, New York 10305
718-447-5540

MARTIN CLEARWATER & BELL, LLP
Attorneys for Defendants
Joseph Conte, Maria Gelmi-nourbaha,
Staten Island University Hospital,
North Shore-long Island Jewish
Healthcare, Inc., North Shore-long
Island Jewish Health System, Inc.,
Andrew J. Passeri, Alfred Glover, Ralph
J. Lamberti, Gerald Ferlisi, Anthony
C. Ferreri, Elizabeth Mercereau,
Americo Varone, Joseph R. Pisani,
Dale Tait, John L. Costello,
John A. D'anna and John M. Shall
220 East 42nd Street
New York, New York 10017
(212) 697-3122

KOPFF, NARDELLI AND DOPF, LLP
Attorneys for defendants Gilbert S. Lederman, M.D.
and Gilbert Lederman, M.D., P.C.
440 9th Avenue
New York, N.Y. 10001
212-244-2999

SALVATORE CONTE, *pro se*
Via Aniello Falcone, 256
Napoli, Italia 80127

ANNAMARIA PERSICO, *pro se*
Via Aniello Falcone, 256
Napoli, Italia 80127

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GARY D. GOTLIN, as Public Administrator of The State of
New York, in and for the County of Richmond, in his
capacity as Administrator of the Estates of the following
decedents:

GIUSEPPA CARAMANNA BONO, deceased, and her
surviving spouse, GIUSEPPE BONO,

DINO BROVELLI, deceased, and his surviving spouse,
PATRIZIA SIRAGUSA BROVELLI;

DINO CATTAI, deceased, and his surviving spouse,
VIRGINIA GRANDIN CATTAI;

FRANCESCO CENTORE, deceased, and his surviving
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GIUSEPPE DiGANCI, deceased, and his surviving
spouse, MARIA RITA PULEO DiGANCI;

ROBERTO ETTORE, deceased, and his surviving spouse,
CARMELA FRAMMARTINO ETTORE; and

MASSIMO FACCHINI, deceased, and his surviving
spouse, FEDERICA LOSACCO FACCHINI;

and

GIANCARLA PESCI; and ANTONIO RODA,

Plaintiffs,

-against-

GILBERT S. LEDERMAN, M.D.; GILBERT
LEDERMAN, M.D., P.C.; PHILIP JAY SILVERMAN,
M.D.; IRINA GROSMAN, M.D.; JOSEPH CONTE;
SALVATORE CONTE; MARIA GELMI-NOURBAHA;

**DECLARATION IN
SUPPORT OF PRE-ANSWER
CROSS-MOTION TO DISMISS**

GLASSER, J.

MANN, M.J.

CV 04 3736

ANNAMARIA PERSICO; STATEN ISLAND UNIVERSITY
HOSPITAL; NORTH SHORE-LONG ISLAND
JEWISH HEALTHCARE, INC.; NORTH SHORE-
LONG ISLAND JEWISH HEALTH SYSTEM,
INC.; ANDREW J. PASSERI; ALFRED L. GLOVER;
RALPH J. LAMBERTI; GERALD FERLISI;
ANTHONY C. FERRERI; BETSEY MERCEREAU;
RICK J. VARONE; JOSEPH R. PISANI; DALE TAIT;
JOHN L. COSTELLO; JOHN A. D'ANNA; AND JOHN
M. SHALL,

Defendants.

-----X

ANTHONY A. LENZA, JR., an attorney duly admitted to practice law before the United States District Court for the Eastern District of New York, hereby declares, pursuant to 28 U.S.C. § 1746, under penalty of perjury:

1. I am an associate of the firm of Amabile & Erman, P.C., attorneys of record for defendants, PHILIP JAY SILVERMAN, M.D. and IRINA GROSMAN, M.D.

2. I am fully familiar with the facts and circumstances of this action known to date.

3. This Declaration is respectfully submitted in support of the within cross-motion by the aforementioned defendants for:

A. an Order, pursuant to the Fed. R. Civ. P. 12(b)(1), dismissing Plaintiffs' Complaint in its entirety, with prejudice, as to defendants, PHILIP JAY SILVERMAN, M.D. and IRINA GROSMAN, M.D., for lack of jurisdiction over the subject matter, and for


B. an Order pursuant to Fed. R. Civ. P. 12(b)(6) dismissing, with prejudice, as to said defendants Count II (Common Law Fraud); Count III (Unjust Enrichment); Count V (Negligent Misrepresentation); Count VI (Breach of Warranty); Count XI (Lanham Act); and Count XII (RICO Act), and for

C. granting these moving defendants such other incidental relief, including the costs of this motion, as may be deemed by the Court to be appropriate.

4. For the purposes of this cross-motion, defendants, PHILIP JAY SILVERMAN, M.D. and IRINA GROSMAN, M.D., adopt the legal arguments found in the Declaration in Support and Memorandum of Law submitted in the underlying pre-answer motion on behalf of defendants, Joseph Conte, Maria Gelmi-Nourbaha, Staten Island University Hospital, North Shore-Long Island Jewish Healthcare, Inc., North Shore-Long Island Jewish Health System, Inc., Andrew J. Passeri, Alfred Glover, Ralph J. Lamberti, Gerald Ferlisi, Anthony C. Ferreri, Elizabeth Mercereau, Americo Varone, Joseph R. Pisani, Dale Tait, John L. Costello, John A. D'Anna and John M. Shall.

WHEREFORE, for the foregoing reasons, it is respectfully requested that defendants' motion be granted in its entirety.

EXECUTED ON: October 20, 2004
Staten Island, New York



ANTHONY A. LENZA, JR. (2680)
ECF username: aalenza
AMABILE & ERMANN, PC
Attorneys for Defendants
Philip Jay Silverman, M.D.
and Irina Grosman, M.D.
1000 South Avenue
Staten Island, N.Y. 10314
718-370-7030

TO: BEHRINS & BEHRINS, P.C.
Attorneys for Plaintiffs
One Edgewater Plaza (Suite 700)
Staten Island, New York 10305
718-447-5540

MARTIN CLEARWATER & BELL, LLP
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Via Aniello Falcone, 256
Napoli, Italia 80127

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
) SS.:
COUNTY OF RICHMOND)

Nancy DeLuca, being duly sworn deposes and says: I am not a party to the action, am over 18 years of age and reside at Staten Island, New York.

On October 20, 2004, I served a true copy of the annexed NOTICE OF PRE-ANSWER CROSS-MOTION TO DISMISS and DECLARATION IN SUPPORT OF PRE-ANSWER CROSS-MOTION TO DISMISS by mailing the same in a sealed envelope, with postage prepaid thereon, in a post-office or official depository of the U.S. Postal Service within the State of New York, addressed to the last known address or the address(s) as indicated below:


BEHRINS & BEHRINS, P.C.
Attorneys for Plaintiffs
One Edgewater Plaza (Suite 700)
Staten Island, New York 10305

MARTIN CLEARWATER & BELL, LLP
Attorneys for Defendants
Joseph Conte, Maria Gelmi-nourbaha,
Staten Island University Hospital,
North Shore-long Island Jewish
Healthcare, Inc., North Shore-long
Island Jewish Health System, Inc.,
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220 East 42nd Street
New York, New York 10017


KOPFF, NARDELLI AND DOPF, LLP
Attorneys for defendants Gilbert S. Lederman, M.D.
and Gilbert Lederman, M.D., P.C.
440 9th Avenue
New York, N.Y. 10001

SALVATORE CONTE, *pro se*
Via Aniello Falcone, 256
Napoli, Italia 80127

ANNAMARIA PERSICO, *pro se*
Via Aniello Falcone, 256
Napoli, Italia 80127


Nancy DeLuca

Sworn to before me on this
20th day of October, 2004


NOTARY PUBLIC

ANTHONY A. LENZA, JR.
Notary Public, State of New York
No. 021.E6020485
Cert. Filed in Richmond County
Commission Expires: 3/1/07

Docket No. CV 04 3736

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSEPH B. BORDINO, as Public Administrator of The State of New York, in and for the County of Richmond, in his capacity as Administrator of the Estates of the following decedents:

GIUSEPPE CARAMANNA BONO, deceased, and her surviving spouse, GIUSEPPE BONO,

GIUSEPPE BONO, deceased, and his surviving spouse, PATRIZIA SIRAGUSA

GIUSEPPE BONO, deceased, and his surviving spouse, VIRGINIA GRANDIN CATTAI;

GIUSEPPE BONO, deceased, and his surviving spouse, MARIA MENSITIERI

GIUSEPPE BONO, deceased, and his surviving spouse, MARIA RITA PULEO

GIUSEPPE BONO, deceased, and his surviving spouse, CARMELA FRAMMARTINO

GIUSEPPE BONO, deceased, and his surviving spouse, FEDERICA LOSACCO

and

GIUSEPPE BONO, deceased, and ANTONIO RODA,

Plaintiffs,

against-

PHILIP J. LEDERMAN, M.D.; GILBERT LEDERMAN, M.D., P.C.; PHILIP JAY
SILVERMAN, M.D.; IRINA GROSMAN, M.D.; JOSEPH CONTE; SALVATORE CONTE; MARIA
TERESA CONTE; ANNAMARIA PERSICO; STATEN ISLAND UNIVERSITY HOSPITAL; NORTH
SHORE-LONG ISLAND JEWISH HEALTHCARE, INC.; NORTH SHORE-LONG ISLAND JEWISH
HEALTHCARE, INC.; ANDREW J. PASSERI; ALFRED L. GLOVER; RALPH J.
GLOVER; GERALD FERLISI; ANTHONY C. FERRERI; BETSEY MERCEREAU; RICK J.
GLOVER; JOSEPH R. PISANI; DALE TAIT; JOHN L. COSTELLO; JOHN A. D'ANNA; AND
JOHN A. D'ANNA.

Defendants.

STATEMENT OF PRE-ANSWER CROSS-MOTION TO DISMISS and DECLARATION IN
SUPPORT OF PRE-ANSWER CROSS-MOTION TO DISMISS

AMABILE & ERMANN, P.C.

Attorneys for Defendants,

Philip Jay Silverman, M.D. and Irina Grosman, M.D.

1000 South Avenue

Staten Island, NY 10314-3407

(718) 370-7030